

# **Judicial Communication: The Do's and Don'ts**

## JUDICIAL COMMUNICATION: THE DO'S AND DON'TS

### THE ABA MODEL CODE PROHIBITS ANY JUDICIAL COMMUNICATION OR ACTIVITY THAT:

1A. is improper or that

1B. appears improper

See Canon One, Rule 1.2 entitled, "Promoting Confidence in the Judiciary";

2A. that adversely impacts the independence, integrity and the impartiality of the judge or that

2B. appears to

See Canon One, Rule 1.2 supra;

3A is biased or that

3B. appears to be biased

See Canon Two, Rule 2.3 (A), (B), and (C) entitled, "Bias, Prejudice and Harassment";

4A. is generated or swayed by public clamor or fear of criticism or that conversely

4B. is uttered to win public favor, praise or support

See Canon Two, Rule 2.4 entitled, "External Influences on Judicial Conduct

5A. is made publicly and involves a pending or impending case and is a statement that might reasonably be expected to affect the outcome or impair the fairness of the matter pending in any court or that

5B. is made out of the public eye but that still might substantially interfere with the fairness of a trial or hearing

See Canon Two, Rule 2.10 entitled, "Judicial Statements on Pending and Impending Cases;

BUT NOTE Subsection (E) of this Rule which specifically allows a judge to respond to critical third party allegations in the media or elsewhere concerning the judge's conduct in a matter, directly or indirectly; subject only to the language of Subsection (A) which deals with statements made publicly re pending or impending cases.

6A. in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the judge's adjudicative duties. The judge shall require those

court officials and employees that are subject to his/her direction and control to act accordingly.

See Canon Two, Rule 2.10 supra;

6B. make such pledges, promises and commitments during a judicial election/re-election campaign and/or that

6C. might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court.

See Canon Four, Rule 4.1 entitled, "Political and campaign Activities of Judges and Judicial candidates in General" at (A) (13);

7A. extrajudicial activity that will interfere with the proper performance of the judge's judicial duties or that

7B. would appear to a reasonable person to undermine the judge's independence, integrity or impartiality.

See Canon Three, Rule 3.1 entitled, "Extrajudicial Activities in General" at (A) and (C);

8A. is a knowingly false or misleading statement made during a judicial election-re-election campaign or that

8B. is made during such election/re-election campaign with reckless disregard of the truth.

See Canon Four, Rule 4.1 (A) (11) and (12);

9. that is made, disseminated or distributed during a judicial election campaign and that is not first reviewed personally by the candidate for judicial office.

See Canon Four, Rule 4.2 entitled, "Political and Campaign Activities of Judicial Candidates in Public Elections".